

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ELIZABETH MARCOTTE

PLAINTIFF

VS.

NO. 4:06CV000658

**UNITED PARCEL SERVICE, INC. and
JOHN DOE MAINTENANCE COMPANY**

DEFENDANTS

ORDER

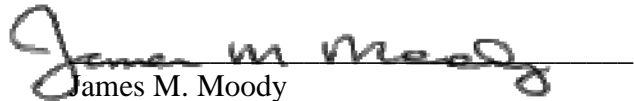
Pending are Defendant's motion for summary judgment, docket # 15 and Plaintiff's motion for sanctions, docket # 18. For the reasons stated on the record in the hearing held on this date, the Court finds that Plaintiff is entitled to the following sanctions for the destruction of evidence:

Defendant's motion for summary judgment, docket # 15, is DENIED; and, at the trial of this matter, Plaintiff may refer to the fact that the box is not available but may not argue that the Defendant destroyed the box with the intent to suppress the truth.

Defendant will be allowed to introduce evidence of its inspection policy and the Court will not instruct the jury that they may infer that the letter box which UPS destroyed was unfavorable to the Defendant and favorable to the Plaintiff. The Court will consider the admissibility of the testimony of Mr. Robinette by separate motion and order.

Wherefore, Plaintiff's motion for sanctions, docket # 18, is granted and Defendant's motion for summary judgment, docket # 15 is denied.

IT IS SO ORDERED this 6th day of July, 2007.


James M. Moody
United States District Judge